

**Remarks/Arguments:**

**Introduction**

Claims 17-26 and 29, 31 and 32 are pending. Claim 17 has been amended to include the limitations of claim 28. Claim 29 has been amended to include the limitations of claim 30. Claims 28 and 30 have been canceled. No new matter is introduced with these amendments. Entry of the amendments is respectfully requested.

The invention provides a device, method for using such a device, as well as use of such a device, for the piece-wise or batch-wise refining of pieces of a textile substrate with a treatment medium under high-pressure in a supercritical or near critical state.

**Section 103 Rejections**

Claims 17-26, 29, 30 and 32 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,491,518 to Fujikawa et al. (hereinafter "Fujikawa") in view of U.S. Patent No. 4,471,949 to Ishii (hereinafter "Ishii") and U.S. Patent No. 6,491,882 to Van Den Berg et al. (hereinafter "Van Den Berg") and U.S. Patent No. 6,652,654 to Propp et al. (hereinafter "Propp"). Claim 31 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Fujikawa in view of Ishii and Van Den Berg and Propp, and in further view of U.S. Patent Application Publication No. 2002/0132007 to Randolph et al. (hereinafter "Randolph"). Applicant respectfully traverses.

Fujikawa shows in figure 1 a pressure cylinder 1 having a top lid 2 and a bottom lid 3 together delimiting a treating chamber 4. In the lid 2 a high-pressure gas inlet/outlet hole 2A is provided. Column 6, lines 58 -62 describes that the lids 2 and 3 may be delimited by press frames 6 which may be a yoke type. Figure 1 shows a closed position, whereas figure 5 shows an open position of the press frames 6.

The pressure cylinder of Fujikawa is intended for the treatment of semi conductor wavers with for example a treatment medium such as argon gas and nitrogen gas.

Fujikawa fails to teach or suggest that its pressure cylinder may be used for the refining of pieces of a textile substrate with a treatment medium under high pressure in supercritical or near critical state. For example, the dying and/or washing f pieces of a textile substrate in supercritical or near critical CO<sub>2</sub>, the dying and the acidifying of pieces of a textile substrate in supercritical or near critical CO<sub>2</sub>, or dying and tanning of pieces of a textile substrate in supercritical or near critical CO<sub>2</sub> is not possible with the construction of Fujikawa.

Moreover, the materials of the several parts of the construction of Fujikawa which, during a treatment cycle, are in direct contact with the treatment medium, are not resistant against the supercritical or near critical treatment medium, like CO<sub>2</sub>. Thus, any modification of Fujikawa would lead to an inoperable device. Accordingly, Fujikawa teaches away from the present invention.

Further, Fujikawa fails to disclose, teach or suggest how the lids are sealed in the pressure cylinder. In the absence of any discussion Fujikawa fails to disclose, teach or suggest that any special sealing arrangements need to be taken. Also, Fujikawa fails to disclose, teach or suggest that its lids have the ability to axially slide with respect to the cylinder. More likely, the yoke of Fujikawa is going to tilt during movement of the yoke, and subsequently hit the lids causing the pressure cylinder to be damaged. Thus, the teachings of Fujikawa are far removed from the claimed limitations of the present invention. Accordingly, Fujikawa fails to teach or suggest the present invention.

Ishii shows a pressure cylinder 2 having upper and lower plugs 3 and 4 for closing the upper and lower open ends of the pressure cylinder 2, to define a high pressure chamber 1 therein. The upper plug 3 is provided with a pressure inlet passage 5. Column 2, lines 55-60 describes that the axial force which acts against the upper and lower plug 3 and 4 are supported

by threaded engagement of the upper and lower plugs 3 and 4 with the pressure cylinder or with the aid of a press mechanism.

Ishii is designed for a so called hot isostatic pressing system generally used for sintering powdery material. Like Fujikawa, Ishii fails to teach or suggest that its system is suited for the refining of pieces of a textile substrate with a treatment medium under high pressure in supercritical or near critical state. Furthermore, retaining means comprising a bounding frame that is circumferentially closed for retaining the upper and lower plugged 3 and 4 in position, is not disclosed, taught or suggested in Ishii. Thus, Ishii fails to cure the deficiencies of Fujikawa. Accordingly, Fujikawa and Ishii, individually or in combination, fail to teach or suggest the present invention.

Van Den Berg shows a cylindrical high-pressure vessel 3 which is formed from a number of layers of composite material, such as glass, carbon or aramide fibers. The cylindrical high-pressure vessel 3 together with a housing 2, a foot piece 5 and a pressure ring 14, can be placed between a circumferentially closed yoke 4, made up of a number of parallel reinforcing plates.

Van Den Berg fails to teach or suggest that its vessel may be suited for the refining of pieces of a textile substrate with a treatment medium under high pressure in supercritical or near critical state. Instead Van Den Berg is used to sterilize foodstuffs, pharmaceuticals, and cosmetic preparations by treating them under high-pressures of between 1,000 and 15,000 bar, thus killing harmful microorganisms and enzymes without vitamins being damaged or the taste being impaired. Further, the construction of the sealings of Van Den Berg is different from the present invention. Looking at figure 3 of Van Den Berg, the outer seal 33 lying against a liner 25, that is to say the inside of the vessel 3, is static. This seal 33 is not allowed to slide, because otherwise the liner 25 will extend and get damaged. The inner seal 34 is a dynamic high-pressure seal between a piston rod 8 and a ring 24. Further, Van Den Berg fails to teach

or suggest any lids which are able to slide inside the high-pressure vessel 3, as set forth by the present invention. Thus, Van Den Berg teaches away from the present invention.

Accordingly, Fujikawa, Ishii and Van Den Berg, individually or in combination, fail to teach or suggest the present invention.

Propp is directed to a system for applying a material to a substrate. Critical or near-critical conditions are mentioned. Propp, however, fails to teach or suggest the device of claim 1 which includes, *inter alia*, a cylindrical pressure vessel with on at least one of its two end faces an aperture that can be closed by a lid, which aperture forms said feed aperture, a retaining means for keeping said lid in place in a sealing manner during treatment, where said retaining means comprise a bounding frame that is circumferentially closed, with two interconnected end pieces situated at a distance from each other, which end pieces in a closed position can be slid over said pressure vessel and thereby retain said end faces of said pressure vessel in its axial direction. Moreover, Propp fails to teach or suggest the method of claim 29 which comprises, *inter alia*, sliding said pressure vessel and the bounding frame out of each other and opening said lid. Further, Propp fails to teach or suggest that modification of its equipment, such as modification as suggested by the examiner in an attempt to arrive at the present invention, would still be suitable for the processing of textile substrates.

Accordingly, Fujikawa, Ishii, Van Den Berg and Propp, individually or in combination, fail to teach or suggest the present invention.

Randolph also mentions the use of critical or near critical fluids. Randolph, like Propp, however, fails to teach or suggest the device and method limitations as set forth above with the discussion of Propp. Further, Randolph, fail to teach or suggest how the systems of Fujikawa, Ishii, Van Den Berg and/or Propp could somehow be modified to operate at critical or near critical conditions.

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Accordingly, Fujikawa, Ishii, Van Den Berg, Propp and Randolph, individually or in combination, fail to teach or suggest the present invention.

In establishing a *prima facie* case of obviousness, the cited references must be considered for the entirety of their teachings. *Bausch & Lomb, Inc. v. Barnes-Hind, Inc.*, 230 U.S.P.Q. 416, 419 (Fed. Cir. 1986). It is impermissible during examination to pick and choose from a reference only so much that supports the alleged rejection. *Id.* It is only through hindsight reconstruction and selective picking and choosing does the Examiner attempt to reach the present invention through the combination of Fujikawa, Ishii, Van Den Berg, Propp and/or Randolph. It is also well established, however, that hindsight reconstruction of a reference does not present a *prima facie* case of obviousness, and any attempt at hindsight reconstruction using Appellant's disclosure is strictly prohibited. *In re Oetiker*, 24 U.S.P.Q.2d 1443, 1445-46 (Fed. Cir. 1993). Such hindsight reconstruction by the Examiner is clear as Fujikawa, Ishii, Van Den Berg, Propp and/or Randolph fail to teach or suggest the limitations of the subject invention.

#### Summary

Therefore, Applicants respectfully submit that claims 17-26, 29, 30 and 32 are patentably distinct. This application is believed to be in condition for allowance. Favorable action thereon is therefore respectfully solicited.

Should the Examiner have any questions or comments concerning the above, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number given below.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2461. Such authorization includes authorization to charge fees for extensions of time, if

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any, under 37 C.F.R. § 1.17 and also should be treated as a constructive petition for an extension of time in this reply or any future reply pursuant to 37 C.F.R. § 1.136.

Respectfully submitted,

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